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U.S. DEPT. OF TRANSPORTATION
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April 4, 2003

FRA-01-8728-30

Docket Management System
U.S. Department of Transportation
Room PL-401
400 7th Street, S.W.
Washington, DC 20590

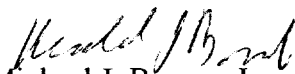
Re: Docket No. FRA-2001-8728-28
Petition of Canadian National Railway Company for waiver to allow
continuation of extraterritorial dispatching operations on the Strathroy and
Flint Subdivisions between Sarnia, Ontario and Port Huron, Michigan.

To Whom It May Concern:

Please include the attached copy of Transport Canada's letter to George A. Gavalla with
the materials we submitted dated April 1.

Please call if you have questions.

Yours very truly,


Michael J. Barron, Jr.
Counsel



Transport
Canada

Transports
Canada

FRA-2001-8728-28

Place de Ville, Tower C
10th Floor
Ottawa, Ontario
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Your file Votre référence

Our file Notre référence

APR 02 2003

George A. Gavalla
Associate Administrator for Safety
Federal Railroad Administration
U.S. Department of Transportation
1120 Vermont Avenue, NW
Washington, DC 20590
USA

Dear Mr. Gavalla:

As required by 49 CFR Part 241 U.S. Locational Requirement for Dispatching of U.S. Rail Operations; Final Rule dated Tuesday, December 10, 2002, the following information is provided regarding "Fringe Border Dispatching Waiver" applications from Canadian National Railways (CN) for

- (i) Petition of Canadian National Railway Company for a waiver to allow continuation of extraterritorial dispatching operations on the Sprague Subdivision between Baudette, MN and International Boundary, MN, a length of U.S track segment of 43.8 miles; and
- (ii) Petition of Canadian National Railway Company for waiver to allow continuation of extraterritorial dispatching operations on the Strathroy and Flint Subdivisions between Sarnia, Ontario and Port Huron, Michigan, a length of U.S track segment of 2.86 miles.

In accordance with the requirements of Part 241.7 (c)(2)(vi) of the Final Rule which reads as follows:

"a verification from a government agency in the country where the dispatching will occur that the agency has safety jurisdiction over the railroad and the proposed dispatching, and that the railroad's safety programs referenced in paragraphs (c)(2)(ii) and (iii) of this section meet the safety requirements established by the agency or, in the absence of established safety requirements, that the programs are satisfactory to the agency."

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Canada

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CN INSPECTION SRVCS

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Transport Canada Rail Safety Directorate verifies that:

- 1) The Directorate has the legislative safety jurisdiction in accordance with the provisions contained in the "*Railway Safety Act*" (RSA) over all federally regulated railways operating in Canada;
- 2) As a federally regulated railway, CN must conduct its dispatching operations in compliance with the federal regulatory regime applying to it.
The regulatory requirements regarding CN's dispatching operations are identified in the information submitted to the FRA as part of their waiver requests. Transport Canada Rail Safety Directorate has reviewed the CN submissions and verifies that it reflects the federal safety regulatory regime as it applies to dispatching operations carried out in Canada.

Compliance with these requirements is monitored by Transport Canada Rail Safety Inspectors and if non-compliance, or threats to rail safety are determined, regulatory action is initiated as required.

- 3) The railway, to further enhance their safe rail operations, has implemented various company safety programs, not established under the provisions of the RSA. Such safety programs affecting their dispatching operations are identified in their waiver submission. While these are not required by the RSA, as company initiated safety programs, they are identified as part of the CN Safety Management System submission. To determine the safety effectiveness of these company programs, the railways are periodically monitored and audited by Rail Safety Inspectors as per Transport Canada's Safety Management System Regulation. Where deficiencies are noted, required corrective action is taken.

If you have any questions or would like additional clarification, please contact either myself at (613)998-2984 or Don Pulciani at (613)990-8690.

Yours sincerely,



Luc Bourdon
Director General
Rail Safety

cc.: Mr. Sam Berrada, Assistant Vice-President
Safety & Regulatory Affairs
Canadian National Railways

Mr. Don Watts, Director
Canadian National Railways

Canada